

# LOCAL AUTHORITIES PENSION PLAN

## 1987 ANNUAL REPORT OF THE BOARD



AUG 15 1990

**LOCAL AUTHORITIES PENSION PLAN BOARD**

1203 Legislature Annex, 9718 - 107 Street EDMONTON, Alberta T5K 1E4

The Honourable Dick Johnston  
Provincial Treasurer  
224 Legislature Building  
EDMONTON, Alberta  
T5K 2B6

Dear Mr. Johnston:

I have the privilege of providing you with the Annual Report of the Local Authorities Pension Plan Board for the calendar year 1987.

The Board's responsibility, as assigned by the Legislature, is:

1. to hear appeals and applications from participants, and
2. to provide advice to the Minister on all aspects of the plan.


Two Board members were replaced during the year, we express our appreciation to Mr. Ken Balkwill, representing the Alberta Federation of Labour and Mr. H. Elliott, representing the Alberta Hospital Association, who served their constituents faithfully. Their advice and input will be missed by the Board.

We express our appreciation to Alberta Treasury, Payroll and Pensions Division for their cooperation during the year.

Yours truly,

A handwritten signature in black ink, appearing to read 'J. E. Faries', with a long, sweeping horizontal line extending to the right.

J. E. Faries, FCIS, PAdm.  
Chairman



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# LOCAL AUTHORITIES PENSION PLAN BOARD

## MEMBERS

**T**he Local Authorities Pension Plan Act establishes The Local Authorities Pension Plan Board, consisting of no less than five persons appointed by the Lieutenant Governor in Council. Appointments must reflect employee and employer representation on the Board. The term of the appointments are at the discretion of the Lieutenant Governor in Council.

The Chairman and Vice-Chairman are appointed from among the members of the Board by the Lieutenant Governor in Council.

## OBJECTS

The legislation outlines the objects of the Board as follows:

- a) to conduct hearings of appeals under Part 6, Section 35;
- b) to provide advice to the Minister under Section 9;
- c) where appropriate to extend time limits and treat benefit choices revoked under Section 10;
- d) to exercise and perform any other powers and duties assigned to it by the act and regulations
- e) to perform any other duties related to the Plan that are assigned to it by the Minister.

In dealing with its advisory function the Act authorizes the Board to advise the Minister respecting any matters relating to the Plan, including:

- a) the adequacy of contributions to meet benefits;
- b) adjustments to pensions under Section 27;
- c) rates of interest for the purpose of the Plan;
- d) benefits;
- e) reciprocal agreements;
- f) recognition of prior service;
- g) eligibility to participate in the Plan, and
- h) the actuarial tables prescribed or to be prescribed by the Minister.



## THE BOARD'S APPEAL PROCEDURE

**S**ection 5(6) of the Act authorized the Board to make rules respecting the calling of and conduct of business at its meetings. During the year the Board revised its procedures to streamline the hearing procedure in order to serve the membership more effectively.

### INTERESTED PARTIES

The identification of "interested parties" as provided for under section 35 of the Act was implemented. In order to ensure a quick response and access to the hearing process, the Chairman was empowered to identify and notify parties he considered as interested parties. Interested parties are those who have a direct moral, financial, legal or policy interest in the outcome of a case.

Where a person other than the appellant or respondent seeks to intervene and in the opinion of the Chairman they are not an "interested party", the Board is to be provided with full details of the request and a decision will be made by the Board.

### GENERAL PROCEDURES

Changes to procedures were made to ensure that all relevant information is made available on all matters before the Board. Where an appeal is received the relevant employer is notified of the name of the appellant and the subject matter of the appeal.

This change to procedures was made in order to provide the employer an opportunity for input into the hearing. In some cases the employer would support the appellant, in others the employer would either defend or clarify the actions of the employer. The notice forwarded to the employer is not intended to contain specific details, unless there is a specific accusation against the employer. If this is the case, the employer may be asked to provide a written submission on the case. If the employer is considered to be an "interested party" the employer is advised of his right to be represented at the hearing. After the decision has been made by the Board, in addition to the appellant, the relevant employer is advised of the decision and reasons for the decision.

### NOTIFICATION OF THE RIGHT OF APPEAL

There is a concern that plan members are not always advised of their right of appeal. In order to ensure that they are knowledgeable of the appeal provision, Payroll and Pensions is encouraged to enclose the brochure "Appeal Process" and the form "Notice of Appeal" with every negative decision made. Several cases where the appellant discovered their rights other than Payroll and Pensions. The Ombudsman has also expressed concern that information on the right to appeal was not widely distributed and is currently considering a recommendation in this area.

The Board distributed a brochure outlining the right of individuals to appeal, however, because of the multi-employer nature of the plan it is difficult to ensure that individual members are aware of their rights. The "Participant Handbook", issued by Payroll and Pensions, also makes reference to the appeal process but because of the nature of the plan it is difficult to ensure that all members receive the booklets. The Board continues to urge the Administration to ensure the Appeal Process brochure and Notice of Appeal are available to each plan member where a negative or limiting decision is made.



## THE BOARD

**T**he Local Authorities Pension Plan Board was established on the proclamation of the Local Authorities Pension Plan Act effective November 1, 1985. The Board consists of three employee representatives (nominated by the Alberta Federation of Labour and Alberta Association of Registered Nurses), two employer representatives (nominated by the Alberta Urban Municipalities Association and Alberta Hospital Association), one government representative for the public at large, and the Chairman.

### MEMBERS

#### **J. E. FARIES CHAIRMAN**

Mr. Faries was appointed Chairman effective November 1, 1985. He has considerable background in pension policy and administration, serving over fifteen years as Director of the Pension Administration, until December 31, 1979. He was a founding Director of the Association of Canadian Pension Management and was involved as Chairman of the Advisory Board of the Employee Benefit Certificate Program of the University of Alberta. He also holds several senior positions on other boards and community organizations. His term of office on the Board extends until April 1, 1988.

#### **A. F. (CHIP) COLLINS VICE-CHAIRMAN**

"Chip" Collins served as Deputy Provincial Treasurer from 1972 until his retirement in 1984. Mr. Collins was appointed a Board Member and Vice Chairman of the Board effective November 1, 1985. He brings to the

Board extensive financial and administrative expertise as well as senior public service experience. Mr. Collins is a government representative. His term expires April 1, 1991.

#### **K. R. BALKWILL**

Mr. Balkwill was appointed to the Board on November 1, 1985 and served until March 31, 1987. He was replaced by Mr. E. A. Evans on April 1, 1987.

#### **E. A. EVANS**

Mr. Evans worked as a tax auditor with the Alberta Government from April 1961 to August 1975 at which time he resigned to take a Union Representative position with the C.S.A. of A. (predecessor of AUPE). His Union activities included serving as staff advisor and chairperson on various committees and the Provincial Executive. He was appointed to the Board on May 21, 1987 and his term of office expires April 1, 1991.

### **A. G. BRUCKNER**

Mr. Bruckner was appointed to the Board effective November 1, 1985. He worked as an Automotive Mechanic with Calgary Transit and held various positions with the Amalgamated Transit Union and Calgary Civic Employees Benefit Society. He is now full-time Financial Secretary/Treasurer and Business Agent with Amalgamated Transit Union (ATU) Local 583. His term of office expires April 1, 1988.

### **B. ORIEUX**

Mrs. Orieux was appointed to the Board on April 29, 1986, as representative of the Alberta Association of Registered Nurses. She graduated with distinction from the University of British Columbia with a Bachelor of Science in Nursing. She has had a continuous professional career, reflecting experience in clinical nursing at both the staff and administrative levels in hospitals and has been nurse-in-charge of a branch of V.O.N. Mrs. Orieux is currently employed as a Community Health Genetics Associate in the Alberta Heredity Diseases Program. She is also an active member in the community, notably an initiator of a Parent/Teacher/Student Advisory Council; a representative to a Community Quality of Life Steering Committee; and a volunteer to the Community Library. Her term on the Board expires April 1, 1988.

### **A. WOMACK**

Mr. Womack was appointed to the Board on April 29, 1986, as a representative of the Alberta Urban Municipalities Association. A Calgarian for 30 years, Mr. Womack is originally from Great Britain. During the Second World War he was a fighter pilot with the Royal Navy in the Mediterranean and North Atlantic and was awarded the Distinguished Service Cross. A chartered accountant, he articulated with the London firm of Touche Ross and Co. Since emigrating to Canada in 1955 he has held a variety of positions including that of Commissioner of Finance and Administration with the City of Calgary until the fall of 1986 when he joined OCO '88. His term on the Board expires April 1, 1988.

### **D. J. HART**

Mr. Hart was appointed to the Board on February 27, 1987 to replace Mr. H. Elliott as a representative from the Alberta Hospital Association. His appointment was extended to April 1, 1991. After holding several positions in private industry, Mr. Hart took up administrative duties and subsequently management positions at various hospitals across Canada. In July 1982 he was appointed Executive Director of the General Hospital (Grey Nuns) of Edmonton.



## INTRODUCTION

**N**ineteen eighty seven completed the second full year of operation of the Local Authorities Pension Plan Board.

During the year 10 regular meetings and one special meeting were held to deal with 22 appeals and to develop recommendations to the Minister on major issues facing the plan. The nature of appeals changed this year, from those received during our first period of operation. Of the 22 hearings, or 27% of the total number of cases 6 dealt with extension of time limits under reciprocal agreements. With the maturing of the appeal process, it was discovered that better developed positions were presented by both the appellants and the respondents. Several cases were reviewed by our investigation section and either referred back to Payroll and Pensions or resolved to the appellants' satisfaction. Of the cases heard, in addition to the reciprocal agreements, topics such as pensionable service, reemployment of a pensioner, pension contributions, pension benefits granted and several other time limit appeals were dealt with by the Board.

In 1987, 64% of the appellants/applicants, or their representatives attended hearings. This compares to 11% during the preceding 14-month period. The average length of hearings increased as appellants took full advantage of opportunities to make personal appearance before the Board. The Minister was also represented at the hearings in the majority of the cases.

An overall review of the operation of the Board indicates that there was an improvement in the hearing process. The majority of the appellants and applicants appeared to have considered the hearing fair and accepted the Board's decision.

The Local Authorities Pension Plan Board strives to provide a fair hearing for each appellant keeping in mind the implication of each decision upon the plan as a whole. We will continue to be guided by the principles of Natural Justice and the Duty to be Fair.

The Early Retirement Incentive Program, implemented by the Government during the year for its employees, had a major impact on the plan administration as the administration was required to commit extra resources to deal with the increase in retirements. It was noted also that there was a marked increase in the number of early retirements as some local authorities introduced their own early retirement programs. The overall impact of early retirement, from a cost point of view, was difficult to determine. It is clear, however, that there will be an additional cost to the plan to fund these retirements.

A two-day seminar was held to provide training and information for members of the six Government Pension Boards and to honour those who had previously served on the Boards. Guest speakers were invited to make presentations on various topics covering pension reform, Board member responsibility, legal aspects of appeal hearings, judicial review, woman's issues in pensions and the investment of the pension fund.

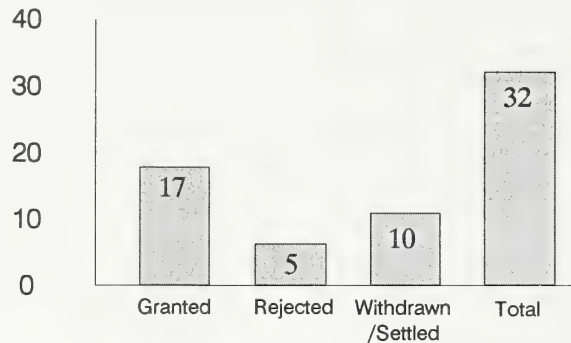
Special guests from the Board of Administrators of the Teachers' Retirement Fund, Alberta Government Telephones, Pension Administration and several employer and employee groups attended the seminar. The Minister's speech was well received by members and his participation at the special presentation honouring retired Board members proved to be a highlight of the seminar.



## HEARINGS

**T**he Board is charged with the responsibility of conducting hearings on applications for extension of time limits under section 10, and appeals under section 35 of the Act. A clause in the reciprocal agreements also assigns authority to the Board to extend time limits under the agreements.

During 1987 the Board conducted 22 hearings, consisting of four applications under section 10 application for extension of time limits; twelve appeals under section 35 and six applications for extensions of time limits under the reciprocal agreements.



One case dealt with by the Board was appealed to the Court of Queen's Bench under section 36 of the Act. This appeal to the Court had not been concluded during the reporting period.

A summary of cases is provided to assist future appellants, employers and the administration to understand the way the Board deals with cases presented for their consideration.

Informality remains an important objective in the hearing process. No formal rules are applied and the Board remains committed to the:

1. principles of natural justice, and
2. the duty to be fair.

The Board agreed to assist appellants with out-of-pocket expenses incurred to attend their hearings. The purpose for this procedure is to ensure that participants who reside outside of the Metropolitan Edmonton Area have the same access to the Board to have their case adjudicated.

## **CASE SUMMARY 1 L87:02:04**

### **ISSUE**

The decision of the Minister to suspend pension benefits upon commencement of contract consulting services for former employer.

### **FINDINGS**

The appellant turned 65 on December 5, 1984 and terminated employment on December 31, 1984. On January 1, 1985 he commenced as a contractor with his former employer. In February 1986 Payroll and Pensions requested details from the employer regarding the working relationship with the appellant. A copy of the contract was received by Payroll and Pensions verifying the termination of the contract as of April 30, 1986. Payroll and Pensions was advised by Attorney General's Department not to provide an opinion on the pension aspect of the contract based on the information available. The appellant confirmed that the contract with his former employer was his only contract for service. Confirmation from the employer was received requiring "... contractor to provide consulting services ...". Payroll and Pensions determined that the appellant was in contravention of section 26 of the Local Authorities Pension Regulation (effective November 1, 1985) and that overpayments had occurred. Verbal confirmation was received by Payroll and Pensions on from the employer of the commencement and ending dates of the contract. On July 29, 1986 Payroll and Pensions informed the appellant and employer of the overpayment in the amount of \$9,318.44 and requested immediate payment of the outstanding amount. A notice of appeal was filed on September 30, 1986.

Under the "control test" the employer had a significant amount of control over the appellant's activities, he was paid monthly, the contract provided for sick leave, death and disability benefits and he had no other contracts.

### **DECISION BY THE BOARD**

The Minister's decision to suspend pension benefits during the period in question was confirmed and the appeal dismissed.

Using employment relationship tests as criteria, the Board determined that the appellant was an 'employee' rather than a 'contractor' during the period in question.

## **CASE SUMMARY 2 L87:05:03 & L87:05:04**

### **ISSUE**

Appeal against pension amounts in a pension options package which are considerably lower than those in a previously issued pension estimate.

### **FINDINGS**

At the appellant's request, Payroll and Pensions provided a pension estimate in April 1986 indicating a monthly Normal Pension (without coordination) of \$2,457.91 based on 29.7188 years of pensionable service and pensionable salary of \$40,110.00. Upon receiving the appellant's application for retirement, effective January 4, 1987, Payroll and Pensions forwarded a pension option package to the appellant's employer advising that the, non-coordinated, normal pension to be \$1,743.16 per month based on 29.7303 years of service and salary of \$39,635.00. Having noted the difference in the pension amounts, appellant visited Payroll and Pensions in January 1987 and was told that an error had been made in arriving at the pension estimate and that the amounts reported in the pension option package were correct. (The error was that the estimate was calculated using 18.7078 years of service prior to January 1, 1966 and 21.0110 years of service after that date whereas 18.7078 years should have been 8.7078 years.) The appellant initiated an appeal in February 1987. His lawyer wrote Payroll and Pensions advising that the appellant could not be re-employed and requesting that the time for finalizing the election of a pension choice be extended until after the hearing. Based on the background information and views presented at the hearing, it was established that Payroll and Pensions were in error in providing the incorrect estimate and that the appellant should receive redress.

The Minister's view was that the Board lacked jurisdiction to provide remedy to the appellant under the current legislation.

### **DECISION BY THE BOARD**

The appellant was granted 30 days from the date of being notified of the Board's decision on his appeal to choose his pension option. The Minister's decision to reject the request to have the pension adjusted to reflect the estimated amount previously calculated by Payroll and Pensions was confirmed.

The time limit in which a pension option must be chosen was extended until after the pension amount has been settled and on the appeal to increase the pension to the amount originally advised, it was felt that jurisdiction under the current legislation to grant remedy is lacking.



## **CASE SUMMARY 3 L87:09:03**

### **ISSUE**

The Minister's decision to deny the appellant the right to purchase a period of service July 9, 1975 to January 12, 1979.

### **FINDINGS**

The appellant commenced employment with the employer during 1970. On July 9, 1975 she was registered as a participant under the Local Authorities Pension Plan. On the same date she completed a Designation of Beneficiary form naming her husband as the first beneficiary. The form was signed and witnessed. On November 23, 1978 the Pension Administration received a Notice of Change and there was a notation "Above noted employee was never to have started LAPP deductions as she was in an exempt group." On January 22, 1979 Payroll and Pensions received an additional Registration form which indicated that the appellant commenced service January 1, 1970 and wished to commence contributions January 12, 1979. No contributions were made by the employer and Payroll and Pensions was required to follow up and make a formal request for current service payments.

The employer advised that the appellant had "chosen not to participate". The appellant terminated her employment on April 18, 1984. On July 16, 1986 the appellant requested permission to purchase the period of service (July 9, 1975 to January 12, 1979). Payroll and Pensions communicated with the employer who maintained that the appellant was in a non-participating class because she was a married female employee. Based on the information provided, Payroll and Pensions advised the appellant that she was not a participant "at time of her application for prior service" and rejected her request to establish the service.

It was determined that the appellant had sufficient service to receive a pension benefit. The employer was identified as an interested party and was allowed to intervene.

### **The Appellant's Case**

The appellant alleged that she intended to become a participant under the plan in 1975 and submitted as proof the Registration form signed by an official of the employer and Notice of a Beneficiary form signed by herself. In addition, a "salary deduction notice" form was submitted indicating that she was a contributor to the Local Authorities Pension Plan, signed by her supervisor, the Department Head, a Budget Control Officer and the Manager/Personnel Office. She claimed that 40 months later a Notice of Change form (removing her from participation) was forwarded to Payroll and Pensions, without her knowledge. She held that at no time did she ever opt out of the Plan and no documentation was presented to prove that she had. She also submitted an annual Pension Statement, issued by Payroll and Pensions, indicating pensionable service of 8.5833 years.

### **Intervener's Case**

Because of the possible financial interest, the employer was provided with an opportunity to appeal or submit a written argument to the Board. Correspondence was received from the employer with the following information.

Each new employee was required to serve a "three month probationary period before participation". They also stated married women were informed that:

1. It was not mandatory to join the Pension Plan.

2. Upon commencement into the Pension Plan it was not possible to opt out later.

They stated that her personal records did not contain any information to prove that a request was made by her to enter the plan prior to her commencement date. They stated "unfortunately, some payroll records were destroyed by flooding applicable to this time period". The employer alleged that, while an employee, she did not request an opportunity to purchase prior service. The appellant terminated her service February 11, 1984. "She appeared to delay terminating her service until she attained the minimum requirement of five years of service." They stated that they "surmised" that later when her husband received retirement counselling (he was also an employee with the same employer and participated in the LAPP) she realized the value of the plan and made application to purchase prior service (July 1, 1975 to January 12, 1979). The employer stated that, according to the recollections of a former employee, the appellant only requested participation in the plan "after being asked" along with other married female employees, that the appellant made no effort to purchase prior service and should have noticed that she did not have deductions made from her cheque before to January 12, 1979. Her husband had pension deductions and a simple comparison should have confirmed that she was not contributing to the plan. Also the original of the salary advice document submitted indicated that the Local Authorities and Group Insurance Plan documents were in a different coloured ink.

"It's questionable why, after an employee terminates, the employer should be billed? Such action would have astronomical results if this case set a precedent by obligating the employer responsible."

#### **The Minister's Case**

The Minister held that the appellant failed to request establishment of the prior service while a participant and therefore could not later apply and have the service established. The Regulation under the Local Authorities Pension Plan Act requires a person to apply for "prior service" while a participant.

#### **DECISION BY THE BOARD**

That the Minister's decision be vacated and that the appellant be considered eligible to make "current service" contributions from July 9, 1975 to January 12, 1979 and that the deficiency as a result of the non payment be made by the employee and employer.

Reasons for the decision included:

1. There was legitimate registration made in 1975.
2. No evidence was presented that the appellant's enrolment was in error or that she agreed with the "notice of change" submitted in 1979.
3. The method of withdrawal should have been the same as registration, that is there should have been confirmation in writing by the appellant.
4. The period in question was not "prior service" but current service under the plan.
5. Legislation places the onus on the employer to submit the statutory contributions on behalf of its eligible employees. The appellant was an eligible employee.
6. After the second registration, Payroll and Pensions had to contact the employer requesting current service contributions, indicating an oversight, similar to the one made in 1975.

## **CASE SUMMARY 4 L87:11:04 and 05**

### **ISSUE**

Application for extension of time limits under the agreement between the Local Authorities Pension Board and the Teachers' Retirement Fund dated December 19, 1978.

1. A break exceeding three months between ceasing to contribute under TRF and commencement of contributions under LAPP.
2. The one year from commencement of employment requirement for an application to be made for the transfer.

### **FINDINGS**

The applicant, a 50 year old female, was a participant under the Teachers' Retirement Fund (TRF) five years when she ceased participation August 31, 1972. Her husband moved to Olds which required a change in the family's home. In September 1973 she was employed in the same position with the employer on a wage basis and on October 1, 1974 she was employed in a salaried position and participated under the Public Service Pension Plan, effective March 1, 1975. The organization changed from a government agency to a Board of Governors status and participated in the Local Authorities Pension Plan (LAPP). The request for a transfer was received by Payroll and Pensions. On March 11, 1982 Payroll and Pensions advised the applicant that she could not have the transfer made because she exceeded the time limits under the agreement.

### **Applicant's Case**

The applicant stated that she was not aware of the requirement that an application be made within one year of commencement of service. She was also unable to obtain employment in the public service sector although she made application with various employers. She claimed that she had no choice since her husband's move required a change of family domicile. She applied for a position in 1972 but was refused on the basis of an interpretation of the "nepotism rule" by a personnel officer. She also stated that even though the policy remained unchanged she was able to obtain employment with the same employer in the same capacity one year after a personnel officer ruled her ineligible. It was clearly a personal and not an organizational



### **Minister's Case**

A Director of Payroll and Pensions stated that the agreements were for the purpose of a transfer of employment and not for the purpose of portability of pensions. The applicant simply missed the time limits and under those circumstances should be refused the transfer. He cited the Minister's comments regarding his view of the agreement restrictions:

- (a) (August 4, 1987) "My view remains that these transfer agreements were designed only to encourage employees not to reject employment offers from reciprocating employers because of inability to transfer pensionable service. Therefore, reciprocal agreements are intended only for those employees who move immediately from one reciprocal employer to another."
- (b) (December 19, 1986) "In considering extension under reciprocal agreements, I intend to entertain only those applicants who had been offered and accepted a job with a participating employer before ceasing contributions to the exporting plan, but were unable to join the new plan within three months because of circumstances beyond their control. Requests for extension of the one year time limit for applying for transfer will be considered only where we have no proof that the individual knew of the deadlines."

### **DECISION BY THE BOARD**

The Board agreed to extend both time limits provided the applicant purchased the service with the employer from August 1973 to February 1975.

Reasons for the decision:

1. Applicant was the victim of a very stringent application of the nepotism rule by a staff member of the employer which was deemed to be incorrect one year later.
2. She made applications for employment to several public bodies but was unable to find suitable employment.
3. It was clear that she was not aware of the requirements with regards to making application within one year of commencement of employment with the employer.

## **CASE SUMMARY 5   L87:12:01**

### **ISSUE**

The decision of the Minister in respect of the amount of pension to be received by the appellant.

### **FINDINGS**

The appellant commenced employment with the employer in October 1973 and made contributions to the Local Authorities Pension Plan on August 25, 1975. On June 30, 1980 he was wrongfully dismissed and was reinstated June 15, 1981. During July 1983, the appellant requested an estimate of his pension and was provided with information based on 10.95 years of pensionable service producing a pension of \$311.16 per month. The appellant decided to leave his contributions on deposit for a deferred pension. In February 1984 Payroll and Pensions advised the appellant that his deferred pension amounted to \$726.67 per month. The pension was erroneously based on 21.9 years of pensionable service. The records forwarded to the appellant showed 10.95 years of pensionable service and did not indicate that the advice was an estimate and no disclaimer was provided as to the accuracy or verification of the amount. On May 13, 1987 the appellant requested that the pension commence June 13, 1987.

Payroll and Pensions forwarded the first cheque July 15, 1987 which provided the reason for the reduction in the amount of pension from \$726.67 to \$377.66 per month. The appellant corresponded with Payroll and Pensions requesting that they honour their original advice of a monthly pension of \$726.67. He received a response on August 31, 1987 that his request was denied and that he would have to proceed to the Court of Queen's Bench for a remedy since the Board lacked jurisdiction to deal with the matter.

### **Appellant's Case**

The appellant stated he did not have the technical expertise to calculate the amount of pension but a rough calculation, of a 25 year pension divided by 10.95 years times the salary, produced a pension within a reasonable tolerance of the \$ 726.67 amount. He further stated that

1. He relied on the information provided in 1984 in making his retirement decision,
2. Canadian law imposes a duty of standard of care, i.e., the error was not detected for almost 3 1/2 years,
3. It is "quite presumptuous . . . to try to resolve this important matter with a casual expression of regret and, in effect, attempt to transfer the cost of the error directly to us",
4. "Under the circumstances . . . the Government of Alberta has a legal and moral obligation to pay the amount of pension indicated in the unequivocal statement of February 7, 1984".

The appellant, in support of his position, filed two cases for the Board's consideration: MANUGE v. PRUDENTIAL ASSURANCE CO. LTD. ET AL., 81 D.L.R. (3d)(a) P. 320, and BANK OF NOVA SCOTIA v. V. K. MASON CONSTRUCTION LTD. and BREGMAN AND HAMANN, 1985 IRCS, File #17437 & 17435.

### **Minister's Case**

A solicitor on behalf of the Minister stated that there was no concern about the appellant having met the time limit to file his appeal. He pointed out that the statute clearly defined how a pension was to be calculated and cited L87:05:04 (Case Summary 2) in support of his view that the Minister's decision should be confirmed by the Board. He stated the Board had no option but to confirm the Minister's decision and that the courts were the proper body to provide relief and not the Board. In addition the solicitor pointed out that the appellant appeared to be a meticulous person and it was questionable why he did not take the matter up with Payroll and Pensions on receiving the 1984 document. He pointed out that the appellant did not mention the discrepancy in 1986 when he complained about the accuracy of his pension statement.

### **DECISION BY THE BOARD**

On the question of jurisdiction the Board ruled that it had jurisdiction to hear the matter.

On the appeal, the Board vacated the decision of the Minister and upheld the appeal thereby establishing the monthly pension of \$726.67.

Reasons for the decision:

1. There was a valid contract between the appellant and the Minister and the documents proved the offer did not contain any caution or disclaimer.
2. The Board considered that the action met the test of negligence cited in the Bank of Nova Scotia v. V. K. Mason Construction Co. Ltd. decision.
3. The appellant's claim that he relied on the offer to his detriment was not disproved by the Minister.



## Appeal to the Court of Queen's Bench

**A** Statement of Claim for loss suffered was filed by an appellant at the Clerk of the Courts Office in December 1987 against the Minister and the Board. (The Board's solicitor took steps to have the Board removed as the defendant.)

Section 36 provides a right of appeal to the Court of Queen's Bench where an appellant, the Minister or any party who consider themselves aggrieved by the decision of the Board based on a question of law or jurisdiction.

For details of the appeal involved, refer to Case Summary 2 of this report. The Court of Queen's Bench has yet to deal with the claim.

The appellant proposed that trial of the action be held at the Law Courts in Edmonton and claimed:

- (a) Judgement, or in the alternative, a certificate pursuant to section 24 of the Proceedings Against the Crown Act, P8A 1980, c. P-18, against the Defendants in the amount of \$300,000.00;
- (b) Interest, pursuant to the Judgements Interest Act, c. J-0.5, RSA 1985; and
- (c) Costs of this action on a solicitor/client basis.

The writ was issued by the Clerk of the Court of Queen's Bench December 23, 1987.

## ADVISORY PROCESS

**T**he legislation, section 8(b) and 9 provides the Board with authority to advise the Minister in respect of all aspects of the plan.

During 1987 the Board completed a full review of the Local Authorities Pension Plan Act. A report was forwarded to the Minister outlining the Board's recommendation. The issues raised in the submission were as follows:

### A. FUNDING

#### 1. Separate Allocation and Accounting of Pension Fund for Each Plan

##### RECOMMENDATION

It is our strong recommendation that the Pension Fund assets should be allocated to each Plan for accounting purposes.

The Pension Fund Act should be amended to include a guarantee that assets remain pension assets.

##### PRESENT STATUS

Current receipts and disbursements of all six Plans flow through the General Revenue Fund, into or out of the Pension Fund, without separate accounting. Therefore, it is difficult to determine the exact status of individual plans as far as the unfunded liability is concerned.

##### RATIONALE

Disparity in treatment is occurring as a result of increased contributions for Local Authorities Pension Plan (LAPP) and Public Service Pension Plan (PSPP) employers and employees but not for the other Plans in the group. "Separate accounting" would ensure that the LAPP and PSPP receive full recognition for the increase in statutory contributions. The scheduled increases when completed will nearly equal the normal actuarial cost of the Plan including the provisions of Cost of Living Adjustments.

Separate accounting would allow for regular reviews in respect of plan liability and force accountability for increases in accrued liabilities.

##### IMPLICATIONS

Management control and reporting systems will have to be adjusted to accommodate this recommendation, if implemented. Also this procedure should facilitate future decisions relative to contribution increases and funding of benefit changes for each Pension Plan.

## 2. Unfunded Liabilities

### **RECOMMENDATION**

The Government should make payments to reduce the unfunded liability on an amortized basis over future years.

### **PRESENT STATUS**

The payment of all benefits is guaranteed by the Government.

The March 31, 1985 actuarial valuation shows total unfunded liabilities for the six government administered pension plans to be \$3.87 billion.

Based on an estimated fund value for the LAPP the approximate unfunded liability attributable to this plan as at March 31, 1985 is in the order of \$1.2 to \$1.6 billion.

The unfunded liability is doubling every 8-9 years due to nonpayment of interest.

### **RATIONALE**

Payment of the unfunded liabilities will control the liabilities being passed to future generations, increase the security of plan participants and assign the cost of manpower to the appropriate operational time frame.

### **IMPLICATIONS**

Payments of interest alone on the unfunded liability for the six plans would be approximately \$300 million per year. Offsetting this cost could be interest earnings which exceed 8.5% interest.

Payments of interest on the unfunded liability attributable to the LAPP would be approximately \$100 to \$130 million per year.

### 3. Statutory Contributions

#### **RECOMMENDATION**

Employee and employer contribution rates should equate, on an ongoing plan basis, to current service costs.

Any increases or decreases to contribution rates should be shared equally by employees and employers. The rates should be set by regulation so that the appropriate adjustments may be made when necessary.

In establishing the current service costs:

- the rate of return assumption should reflect returns earned by large private sector funds,
- actuarial assumptions and method should be more appropriate to establishing current service contributions, than those used for the March 31, 1985 actuarial valuation, and
- there should be employee/employer/government input into the establishment of the actuarial assumptions used to establish the statutory contribution rate.

#### **PRESENT STATUS**

Statutory contributions on an increasing basis are established in the Act and regulations as:

PERCENTAGE OF SALARY				
YEAR	EMPLOYEE		EMPLOYER	
	To YMPE	Over YMPE	To YMPE	Over YMPE
1987	4.025%	5.75%	5.025%	6.75%
1988	4.2%	6.0%	5.2%	7.0%
1989 onward	4.375%	6.25%	5.375%	7.25%

YMPE is the Year's Maximum Pensionable Earnings for each calendar year as defined in the Canada Pension Plan.



The March 31, 1985 actuarial valuation indicated that current contribution levels were not adequate to fully fund the plan for future service. It is assumed in the valuation that cost of living adjustments will be made annually in the future at 75% of CPI.

An independent actuary commissioned by the Board found the March 31, 1985 actuarial assumptions and method "overly conservative" when measured against parameters viewed as appropriate to determine the current service contributions required to fund the plan for current benefits.

#### **RATIONALE**

Benefits should be funded as they accrue rather than being passed to the next generation.

Though the "Pension Fund" does not have the objectives of a private sector pension fund, contribution rates should be established assuming investment yields that would equal those attained by a large private sector pension fund in Canada.

#### **IMPLICATIONS**

The actuarial opinion received, from the actuary commissioned by the Board, suggested that the 1989 statutory contributions will equal or exceed the current service cost, including COLA, when incorporating the criteria put forth by the Board.

## B. COST OF LIVING ADJUSTMENTS (COLA)

### 1. COLA

#### RECOMMENDATION

COLA at 75% of the Consumers Price Index (CPI) should be encoded in the legislation.

#### PRESENT STATUS

COLA is granted at the discretion of the Lieutenant Governor in Council. In the years 1970 through 1987 the practice has been consistently applied with the result that the average increase over this period represents approximately 75% of the increase in the CPI for Canada.

#### RATIONALE

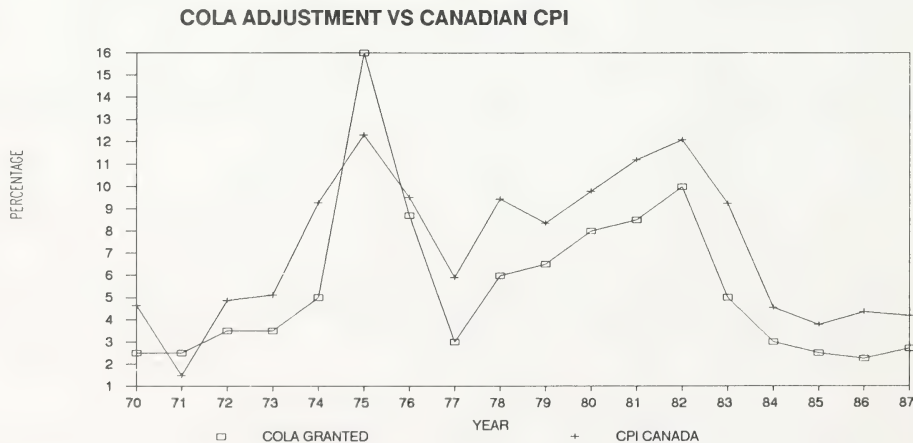
If current contributions are established on the basis that 75% COLA will be granted, the adjustments should be assured in the plan legislation.

Other reasons for encoding COLA are as follows:

- employees and pensioners could better plan for the future knowing to what extent their pensions would be protected from inflation, and
- the benefit should be encoded for purposes of calculation of commuted value of pension on termination or marriage breakdown and to facilitate portability.

#### IMPLICATIONS

It has been assumed in the actuarial valuation that future "ad hoc" COLA would occur annually at 75% of inflation. Therefore encoding COLA at this level would incur no additional costs.



## **C. PENSION REFORM**

### **1. Participation**

#### **RECOMMENDATION**

The employer discretion with respect to employees who will be allowed to participate, other than full-time continuous employees, should be removed and all eligible participants should be required to participate.

#### **PRESENT STATUS**

Full-time, noncontinuous employees and part-time, continuous employees with regularly scheduled hours of not fewer than 728 hours per year or 14 hours per week, may participate in accordance with the employer's policy.

#### **RATIONALE**

Increased participation and removal of employee and employer discretion is consistent with the objects of pension reform.

The Board consider that the requirement for minimum hours which applied to part-time, continuous employees remain appropriate for the purpose of participation.

#### **IMPLICATIONS**

Administration of the plan would increase through additional enrollments and issuing of refunds to non-vested terminating employees.

Computerization of refunds would minimize additional manpower required.

Fewer purchases of prior service would reduce administration.



## 2. Vesting

### **RECOMMENDATION**

Vesting at Normal Pensionable Age should occur even if the requirement of 5 years of pensionable service is not met.

Five years of continuous participation (i.e., "participatory service") rather than five years of pensionable service should be used for the purposes of vesting and early retirement (85 factor). Pensionable service would continue to be used for calculation of benefits.

### **PRESENT STATUS**

A minimum of 5 years of "pensionable service" is required for eligibility for a pension. A part time employee, working half time, would be required to work 10 years before vesting would occur.

Pensionable service is used in determining eligibility for early retirement without reduction.

### **RATIONALE**

The recommended changes to vesting are consistent with the Alberta private sector pension reform legislation.

The changes to vesting and application of the 85 rule are necessary for the equal treatment of full and part-time employees.

### **IMPLICATIONS**

Increases in costs would be minimal.

## 3. Locking-In

### **RECOMMENDATION**

Pension benefits should be locked-in upon vesting.

### **PRESENT STATUS**

Pension benefits are locked-in when immediately entitled to a pension benefit, i.e., with the attainment of age 55 and 5 years of pensionable service.

### **RATIONALE**

The change would be consistent with the objective of the pension plan to provide financial security for retirement years. It is also consistent with pension reform legislation.

In addition, vesting would serve to preserve post-retirement spousal protection.

### **IMPLICATIONS**

Costs would be minimal.

#### 4. Credited Interest

##### **RECOMMENDATION**

Interest on employee contributions should be credited at a market rate.

The Board, in March 1986, recommended that the average rate paid on non-chequing saving accounts for the previous year, as reported by the Bank of Canada, be credited to members' accounts.

Subsequently the Canadian Association of Pension Supervisory Authorities (CAPSA) reached a consensus on crediting of interest to members' accounts, at the annual average yield on the 5-year personal fixed term deposits, as published by the Bank of Canada.

The CAPSA basis would be somewhat more generous over the long term than the previous recommendations made by this Board.

##### **PRESENT STATUS**

Currently interest is credited on contributions at 4% per annum compounded semiannually.

##### **RATIONALE**

The change would be consistent with pension reform legislation.

An increased interest rate is required for reasons of fairness for calculation of refunds on non-vested terminations and for the application of the minimum value rule on vested terminations.

This would also remove a major point of discontentment among plan members.

##### **IMPLICATIONS**

The Wyatt Company, the actuary commissioned by the Board, estimated what would be x the additional liability for the Public Service Pension Plan; however an estimate was not provided for the Local Authorities Pension Plan.

Previously Paterson Cook Ltd. estimated costs varying from 0.05% to 0.1% of payroll for each 1% increase in interest credited.

## 5. Portability and Minimum Employer Cost Rule

### **RECOMMENDATION**

On termination, transfer of the value of the vested pension should be permitted to:

- (a) a pension plan of a subsequent employer, if that plan accepts such transfer, or
- (b) a locked-in RRSP, or
- (c) an insurance company to purchase a life annuity.

The transfer value of a vested pension should be based on the recommendations for the computation of minimum transfer value of deferred pensions developed by the Canadian Institute of Actuaries. (This basis is prescribed for private pension plans.)

The minimum employer cost rule should apply retroactively to all current service.

### **PRESENT STATUS**

Transfer of funds is allowed only under the terms of a reciprocal transfer agreement; otherwise only withdrawal/transfer of employee contributions and interest is allowed.

No minimum employer cost rule provisions are currently applicable.

### **RATIONALE**

The transferability of vested pensions enhances portability.

The 50% rule assures minimum employer contributions. Current reciprocal agreements could then be terminated or modified.

### **IMPLICATIONS**

Referring to the cost implication, The Wyatt Company has tentatively concluded as follows:

"if the early retirement subsidy were eliminated and the termination benefit provisions of the (Employment Pension Plans) Act were implemented, the net impact would be a reduction in the cost of the plans".

Provision of portability would increase the outflow of cash from the Pension Fund in the near term thereby increasing the need to address payment of the unfunded liability.



## **D. OTHER PENSION MATTERS**

### **1. Early Retirement Adjustment Factors**

#### **RECOMMENDATION**

Early retirement factors should be adjusted to a true actuarial equivalency basis.

#### **PRESENT STATUS**

Factors currently in use to adjust pension for early retirement are about 30 to 40% of the true actuarial reduction.

#### **RATIONALE**

The recommended change would decrease the cost of early retirement pensions and thus would improve the financial soundness of the plan.

#### **IMPLICATIONS**

The Wyatt Company has tentatively concluded that if the early retirement subsidy were eliminated and the termination benefit provisions of the Employment Pension Plans Act were implemented, the net impact would be a reduction in cost of the plan.

The factors to be used are prescribed by the Minister.

To the extent that the current subsidy is used to encourage early retirement, other incentives would be required to achieve that objective.

## 2. Division of Pension Benefits on Marriage Breakdown

### **RECOMMENDATION**

The Board favours the implementation in Alberta of the recommendations of the Institute of Law Research and Reform.

In addition the following should apply under the Plan:

- (a) upon request by either the employee or non-employee spouse, a valuation of benefits accrued during marriage will be provided by pension administration, and
- (b) Valuation and Division will be permitted under the plan without a court order provided there is consent of both parties.

These recommendations were forwarded to the Minister in June 1987.

### **PRESENT STATUS**

Current methods available for dividing pension benefits are Valuation and Accounting and Division of Proceeds. Valuation and Division is not available.

The pension administration will provide pension information to a non-employee spouse only on the written request of the employee.

The pension administration will not assign a value to a benefit, therefore on marriage breakdown the parties must seek advice from an independent source.

### **RATIONALE**

Comments on the specific recommendations applying to the Plan are as follows:

- (a) The Canadian Institute of Actuaries' recommended basis would be used for the valuation of accrued pension on both termination of employment (for portability) and on marriage breakdown (for pension splitting).
- (b) The Board's recommendations would facilitate and encourage settlement outside of the courts.

### **IMPLICATIONS**

Together with portability, Valuation and Division on marriage breakdown would serve to increase the outflow of cash from the Pension Fund in the near term.

Additional administrative costs would incur in valuing the benefits, and actuarially adjusting the employee's benefits at termination, death or retirement. These costs, however, could be charged to the parties.

The recommendations would serve to make division of pension benefits easier and less costly for participants and spouses.

### 3. Recognition of Prior Service

#### **RECOMMENDATION**

The Board advised the Minister on recognition and costing of prior service in October 1986.

The recommendations were as follows:

- (a) that certain types of service recognized under the plan become ineligible for purchase;
- (b) that the cost of reinstating service for which a refund was previously received be based on current salary;
- (c) that portability between Alberta public plans be reviewed by the Department before changes are made to recognition of contributory prior service under another Alberta Plan;
- (d) that commuted value amounts transferable under pension reform legislation be held in the individual's RRSP rather than being permitted into the plan; and
- (e) that the minimum monthly prior service payment be increased, prompt application be encouraged and market amortization rate of interest apply.

#### **PRESENT STATUS**

Costs currently levied for prior service vary depending on type of service being purchased, the years since the prior service was rendered, and date of application. The costs do not relate to the actuarial value of the resulting increase in pension.

#### **RATIONALE**

Current provisions for recognition and costing of prior service have proven to be arbitrary and inequitable.

Recognition of prior service under other jurisdictions in Canada is more restrictive.

Purchase of prior service is one source of growth in unfunded liabilities.

The proposed tax changes and proposed changes to pension plan registration rules also impact on the provision of prior service.

#### **IMPLICATIONS**

Changes recommended, if accepted, will reduce inequities between employees, increase fiscal responsibility, and lower administrative costs.

#### **ACTION**

As of the end of the reporting period the recommendations were under active consideration by the Minister.



#### 4. Cost of Living Adjustment

##### **RECOMMENDATION**

That pensions paid under the Local Authorities Pension Plan be increased by 3.3% effective January 1, 1988.

##### **PRESENT STATUS**

Legislation provides that:

"Notwithstanding anything in this Act, the Lieutenant Governor in Counsel may by regulation, for the purpose of maintaining approximate parity with the cost of living, make adjustments in the in the amount payable as pensions".

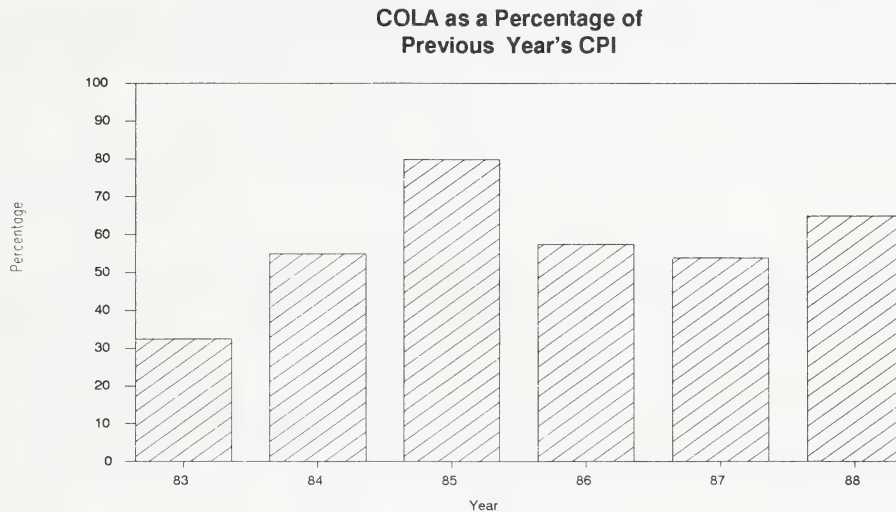
Contributions are being adjusted to take into consideration the value of the adjustments at 75% of inflation. During the measurement period October 1986 to September 1987 the Consumer Price Index (CPI) was as follows:

Jurisdiction	Index September 1987	Index September 1986	Increase October 1986 to September 1987
Canada	139.3	133.3	4.5%
Edmonton	135.6	129.2	4.95%
Calgary	133.7	128.7	3.89%

The increase Calgary/Edmonton Composite CPI for the year was 4.42%.

In the years 1970 - 1987, adjustments consistently were applied on an ad hoc basis resulting in the average compound increase over this period being approximately 75% of Canadian CPI and 79% of the Calgary/Edmonton Composite CPI.

The following graph indicates the COLA granted as a percentage of the increase for the previous year in the Alberta CPI over a six year period.



#### **ACTION**

The Lieutenant Governor in Counsel authorized pension adjustments effective January 1, 1988 of 2.5% for those who retired prior to January 1, 1987 and prorated for those who retired during the year 1987.

## SUMMARY OF MAJOR BENEFIT PROVISIONS

**T**his is a summary of the major provisions of the major provisions of the Local Authorities Pension Plan. It is provided as a quick reference for information and does not constitute a legal interpretation of the Local Authorities Pension Plan Act. The Act and regulations thereto should be reviewed for an interpretation in any specific circumstance.

The Local Authorities Pension Plan Act (Chapter L - 28.1 1985 of the Statutes of the Legislative Assembly of Alberta) establishes a pension plan for payments of pension and related ancillary benefits to eligible employees of Local Authorities in Alberta.

### Eligibility for Participation

Persons eligible to participate in the plan include full-time, part-time and other employees as defined in the Act.

### Contributions

Employees and employers were required to make current service contributions at the rate of 4.025% up to the years Maximum Pensionable earnings under the Canada Pension Plan (YMPE) and 5.75 on any salary above the YMPE for the year 1987. The employer contributions are 5.025% up to the YMPE and 6.75% salary earned over the YNPE. Increases in the contribution rate is scheduled until 1989 when the rate of contributions for the employee would equal 4.375 on salary up to the YMPE and 6.25 on any salary earned in excess of the YMPE. The employer is required to contribute 1% more than the employee. Participants are not required to make contributions after 35 years of pensionable service. Employees and employers are required to contribute amounts as prescribed in respect of prior service.

### Credited Interest

For the purposes of determining lump sum cash benefits or transfer amounts, interest is credited on employee contributions at the rate of 4% per annum, compounded semi-annually.

### Normal Retirement Age

The normal retirement age is 65. The effective date of commencement of pension is the day after the person ceases to be an employee.

### Normal Retirement Benefit

The benefit payable at normal retirement is an annual pension equal to:

- 2% of pensionable salary multiplied by years of pensionable service prior to January 1, 1966, plus
- the sum of 1.4% of pensionable salary up to the average YMPE and 2.0% of pensionable salary in excess of the average YMPE, multiplied by years of pensionable service on or after January 1, 1966.
- Pensionable service does not continue to accrue after 35 years have been accumulated.

Pensionable salary is the participant's average annual salary in the 5 consecutive years in which his or her average salary was the highest.

Average YMPE is the average of the Year's Maximum Pensionable Earnings under the Canada Pension Plan in the 5 years preceding date of termination employment.

Pensionable service includes:

- service after March 31, 1962 for which current service contributions have been made, and
- approved prior services which contributions have been made in accordance with the regulations, or
- 1/2 of service before April 1, 1962 in which if such service had been after March 31, 1962 would have been pensionable service.

#### Normal Form of Pension

The pension is payable for the lifetime of the pensioner or 5 years, whichever is longer. If the pensioner has a spouse, he or she will be deemed to have chosen a joint life pension with 2/3 continuing to the surviving spouse. Such joint life pension will be actuarially equivalent basis are available subject to the completion of a spousal waiver form.

#### Benefits on Early Retirement

A participant who ceases to be an employee after attaining age 55 and whose age and pensionable service total 85 or more is entitled to a normal retirement pension commencing immediately or to transfer his or her own contributions with interest, plus any amount transferable under a reciprocal agreement, to another registered pension plan.

A participant who ceases to be an employee after attaining age 55 and the completion of 5 years of pensionable service, but whose age and pensionable service do not total 85, may elect to receive a pension commencing immediately, reduced to actuarial equivalent of the pension that would be payable if his or her age were the lower of 65 or 85 less pensionable service. In practice, only one-third of the full actuarial reduction is applied.

#### Benefits on Disability

An employee or a person entitled to a deferred pension who is totally disabled, has completed 5 years of pensionable service, and is not receiving benefits under an approved disability plan is entitled to receive a normal pension.

A person who satisfies the above conditions but is partially disabled is entitled to receive a pension that is actuarially equivalent to the pension that would be payable if his or her age were the lower of 65 or 85. In practice, only one-third of the full actuarial reduction is applied.

A person who is receiving benefits from an approved disability plan is not entitled to receive a pension at the same time. While in receipt of benefits from an approved disability plan, participation in the plan continues. Salary, for the purpose of current service contributions or for the purpose of determining any pension to which the participant may subsequently become entitled, is the salary that was being earned immediately before disability benefits commenced, increased by any subsequent general increases applicable to his/her class of employment.



### Benefits on Death before Retirement

On death prior to retirement of an employee or former employee who has contributions in the plan and who has

- (a) no surviving spouse or dependent children, the beneficiary is entitled to a payment equal to employee contributions with interest;
- (b) a surviving spouse or dependent children, the spouse or children are entitled to a payment of twice the times employee contributions with interest.

If the deceased had completed 5 years of pensionable service, the surviving spouse may elect in lieu of (b) above:

- (i) a pension for life calculated as though the employee or former employee had retired on the day before death and elected a joint life pension with 100% continuing on his or her death to the spouse or
- (ii) a pension with a guaranteed term or a pension for life, with or without a guaranteed term, that is actuarially equivalent to (i) above.

### Benefits on Termination of Employment

On termination of employment before the completion of 5 years of pensionable service, a participant has the option of

- receiving a refund of employee contributions with interest, or
- transferring employee contributions with interest plus any other amount transferable under a reciprocal agreement to another registered pension plan.

On termination of employment after the completion of 5 years of pensionable service but before entitled to receive an immediate pension, a participant has the option of

- receiving a refund of employee contributions with interest, or
- transferring employee contributions with interest, plus any other amount transferable under a reciprocal agreement, to another registered pension plan, or
- receiving a pension commencing at or after age 55 that is actuarially equivalent to pension that would be payable if his or her age were lower of 65 or 85 less pensionable service. In practice, only one-third of the actuarial reduction is applied.

### Cost of Living Increases

The Lieutenant Governor in Council, by regulation, may make adjustments in the pensions currently payable to pensioners and beneficiaries and in the case of a deferred pension to commence at some later date to maintain approximate parity with the cost of living.

# EXCERPTS FROM THE LOCAL AUTHORITIES PENSION PLAN ACT

## Division 2

### The Local Authorities Pension Plan Board

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**Establishment,  
composition,  
term of office,  
etc.**

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- 5(1) There is hereby established a board known as the Local Authorities Pension Plan Board.
  - (2) The Board shall consist of not fewer than 5 persons appointed members of the Board by the Lieutenant Governor in Council.
  - (3) The Lieutenant Governor in Council shall appoint 1 of the members of the Board from among participants and another from among persons nominated by the employers.
  - (4) A member of the Board holds office for the term fixed in relation to him by the Lieutenant Governor in Council.
  - (5) The Minister may prescribe the remuneration and expenses to be paid to members of the Board.
  - (6) The Board may make rules respecting the calling of and the conduct of business at its meetings.
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**Chairman and  
vice-chairman**

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- 6(1) The Lieutenant Governor in Council shall designate one of the members of the Board to be the chairman and another member to be the vice-chairman of the Board.
  - (2) The vice-chairman shall act as chairman when the office of chairman is vacant or when the chairman is absent or unable to act.
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**Support Services**

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- 7 The Minister shall provide such supplies, services and accommodation as he considers necessary to enable the Board to fulfil its objects.
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**Advisory  
functions of  
the Board**

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- 9 The Board may advise the Minister respecting any matters relating to the Plan, including
    - (a) the adequacy of contributions to meet benefits,
    - (b) adjustments to pensions under section 27,
    - (c) rates of interest for the purposes of the Plan,
    - (d) benefits,
    - (e) reciprocal agreements,
    - (f) recognition of prior service,
    - (g) eligibility and participation in the Plan, and
    - (h) the actuarial tables prescribed or to be prescribed by the Minister.
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**Board's power  
to extend time  
limits, etc.**

10(1) Where

- (a) a person fails to meet a time limit under the Plan,
- (b) the failure will or could result in a person's obtaining different benefits than those he would have obtained had the time limit been met, and
- (c) the Board is satisfied that the failure results from circumstances that import no material fault on the part of that person,

the Board may, on application to it, extend the time limit.

(2) Where

- (a) the circumstances set out in subsection (1)(a), (b) and (c) apply,
- (b) the benefit has been received or has commenced to be paid, and
- (c) the Board is satisfied that a choice, including a deemed choice, that would otherwise be irrevocable under section 40(2) could materially prejudice the best interests of the recipient or his dependants,

the Board may, on application to it, treat that choice as revoked, extend the time limit for making the choice and order any consequential adjustments in the benefits.

(3) Where

- (a) a benefit choice has been made, and
- (b) the Board is satisfied that
  - (i) the choice communicated to the Minister was not that which the person making the choice actually intended, and
  - (ii) the application mentioned in this section does not result from a change in a person's circumstances affecting the choice,

the Board may, on application made to it within 3 months from the date when the benefit was received or commenced to be paid, treat the choice as revoked and substitute for it the choice which, in the Board's opinion, the person originally intended to make and order any consequential adjustments in the benefits.

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## **PART 6 APPEALS**

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### **Appeal to the Board**

- 35(1) A party aggrieved by a decision of the Minister under or in relation to Parts 2 to 5 or the prescribed provisions of the regulations, other than a decision under section 32 or one that could be the subject-matter of an application under section 10, may appeal against that decision to the Board.
- (2) A party wishing to appeal to the Board under this section must serve the chairman of the Board with a notice of appeal in the form prescribed by the Minister within 30 days of being notified in writing of the decision appealed against or within such longer period as the Board may, on application, allow.
- (3) The notice of appeal must specify the decision appealed against and the grounds of appeal.
- (4) The Board may identify persons who may be interested in the appeal and may give directions as to the persons to be served with the notice of appeal, whether or not they are parties.
- (5) For the purposes of conducting an appeal under this section, the Board
- (a) has all of the duties, power, privileges and immunities given to a commissioner appointed under the Public Inquiries Act by sections 3, 4, 7 and 9 of that Act, and
  - (b) shall be deemed to be a person authorized for the purposes of section 1(a) of the Administrative Procedures Act.
- (6) The Board may confirm, vacate or vary the decision appealed against.
- (7) The Board shall serve the appellant and persons who received a notice of appeal with a copy of its decision, including the reasons for the decision.

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### **Appeal to the Court of Queen's Bench**

- 36(1) A party aggrieved by a decision of the Board under section 35 may, within 30 days of the date of service of the Board's decision on him or such longer period as the Court may allow, appeal to the Court of Queen's Bench on a question of law or jurisdiction.
- (2) The procedure in an appeal to the Court of Queen's Bench shall be the same as that provided in the Alberta Rules of Court for applications by originating notice.
- (3) The Court of Queen's Bench, on hearing the appeal, may confirm, vacate or vary the decision of the Board or make any order it considers just.



## NOTES



